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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,014	07/20/2001	Emanuel S. Kemeny		9116

7590 08/19/2002  
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EXAMINER

WEINSTEIN, STEVEN L

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 08/19/2002

124

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/909014

Applicant(s)

KEMENY

Examiner

S. WEINSTEIN

Group Art Unit

1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☐ Responsive to communication(s) filed on 5/6/02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-15 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-15 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 448
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

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Upon reconsideration, the election of species set forth in the office action mailed 5/1/02, is hereby withdrawn and an action on the merits of all of the claims follows.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-15 are rejected under 35 USC112, first paragraph. From the specification it is not clear what a “meal equivalent” bar means. Does this mean that the bar is equal to consuming the food equal to a meal? If so, what is the basis for comparison? Is the comparison based on a number of calories equal to a meal? Also, from the specification, it is not clear how appetizer ingredients, the main course (ingredients) and the dessert ingredients are being defined. This is important to be able to determine what is the scope of the claim(s). For example, what constitutes ingredients for an appetizer or a dessert or even the main course? Since as disclosed, all of the segments appear to be cereal based, it does not appear that the invention is bringing together, for example, a shrimp segment as an appetizer and a piece of cheese cake as a dessert. What constitutes appetizer and dessert ingredients? Are they taste factors? Also, based on personal tastes, one person’s appetizer could be another person’s dessert. For example, some seafood restaurants offer rum buns before the main meal rather than after the main meal. As disclosed, all three segments, although having some ingredients in common appear to differ from each other in one or more ingredients. If this is the case, then this should be recited. Also, as disclosed it is not clear whether only the appetizer segment has one or more appetite stimulants and only the dessert segment has one or more appetite depressants. Since applicant has disclosed

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that fats and sour products stimulate appetite and fiber and bitter products depress appetite, and since fats and fiber are common ingredients found together in processed foods, what happens if both appear in the same segment? Claim 1 only recites an appetite stimulant and depressant. Do these components have to be present in a specific amount to function as stimulants or depressants? If so, then the claims should recite in an amount sufficient to stimulate or in amount sufficient to depress....

Further, claim 1 recites a "bar" with segment dividers, which divide the bar into segments. Score lines or binders connecting the segments are consistent with the term bar. However, it is not seen that inedible separators or even edible barriers, which presumably are positioned fully between segments so that the segments are not physically attached to each other, are consistent with the term bar.

It is also not clear from the specification, what "segment appropriate" ingredients means (e.g. claims 8-11).

Finally, it is not clear from the specification what or how the food bar provides improved physiological and psychological support for the consumer as is claimed in claim 1.

Claims 12-15 share the issues noted above. Further, as disclosed, the appetite stimulant appears to be at least in a segment disclosed as being an appetizer segment and the appetite depressant at least in the dessert segment. Claim 12 appears to make no distinction between the segments as to their function.

In regard to claim 14, in what characteristics are the segments equivalent to an appetizer, main course, or dessert?

No art is applied against the claims at the present time.

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The references cited on the USPTO 892 forms are cited as art of interest.

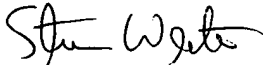
Any inquiry concerning this communication from the examiner should be directed to Steven Weinstein whose telephone number is 703 308-0650. The examiner can generally be reached on Monday-Friday from 7:00 a.m. to 3:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703 308-3959. The fax phone numbers for the organization where this application is assigned are 703 872-9310 for regular communications and 703 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703 305-0661.

Examiner Weinstein/ng  
August 15, 2002

7/24 → 8/15

  
**STEVE WEINSTEIN**  
**PRIMARY EXAMINED** 1761  
8/16/02